

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-479-E

Office of Regulatory Staff,)
)
Complainant/Petitioner,)
)
vs.)
)
Mill Creek Marina & Campground, Inc.)
and/or Richard B. and Diane W. Anderson,)
)
Defendants/Respondents.)
_____)

**RESPONDENT'S OPPOSITION TO
PETITIONS TO INTERVENE**

Mill Creek Marina & Campground, Inc. and/or Richard B. and Diane W. Anderson (hereinafter "Mill Creek") oppose the late-filed Petitions to Intervene submitted by South Carolina Electric & Gas Company ("SCE&G"), Duke Energy Carolina, LLC ("Duke Energy") and Progress Energy Carolinas, Inc. ("Progress Energy"). Further, The Electric Cooperatives of South Carolina, Inc. ("the Cooperatives") have not petitioned to intervene in this action but have sent a letter in support of the Office of Regulatory Staff's ("ORS") Petition for Rehearing and Reconsideration. None of the above-named entities are entitled to intervene or participate in any way in this action. The Commission should deny the Petitions to Intervene and should disregard all materials filed by any of the above-named entities.

SCE&G and Duke Energy/Progress Energy have not met the criteria set forth in S.C. Code of Regs. 103-825(3) to warrant intervention as a party. Specifically, S. C. Code Ann. Regs. 103-825(3) provides a Petition to Intervene shall set forth clearly and concisely the following:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;
- (b) The grounds of the proposed intervention; and
- (c) The position of the petitioner in the proceeding.

In this case, SCE&G's Petition fails to meet the criteria. SCE&G has set forth no facts from which the nature of its alleged right or interest can be determined. SCE&G asserts that "it is an electrical utility subject to the jurisdiction of the Public Service Commission" and that it "has a direct and material interest in the outcome of this proceeding." On its face, this is insufficient to warrant intervention.

Duke Energy/Progress Energy's Petition also fails to meet the criteria. They argue simply "that the outcome establishes precedent and *could* impact PEC and DEC's business interests." This cannot be the standard for intervention. Clearly, any and all decisions by the PSC on electric utility matters would meet this very low threshold. As the Commission is well aware, electric utilities do not intervene in all matters that "could" affect their business interests, nor should they be allowed to intervene since they have not identified a specific reason to allow such intervention. Additionally, if this case did create such a "material interest," they should have attempted to intervene at the onset of the case and not waited to see if they liked the outcome before deciding to intervene.

As is clear from their petitions, SCE&G and Duke Energy/Progress Energy simply disagree with the Commission's ruling in this case. By their standard, every electric utility in South Carolina would have a basis to intervene in this action (or any other action for that matter) when the Commission issues an unfavorable ruling. If these entities wanted to intervene in this matter and wanted to have the opportunity to present evidence or argue the merits, they should have petitioned to intervene prior to the

hearing. There is no basis for SCE&G and Duke Energy/Progress Energy to intervene at this late date.

Similarly, the Cooperatives seek to state their opposition to the Commission's ruling in this case without being a party. Clearly, this is impermissible. S.C. Code Ann. § 58-27-2310 clearly provides that a "*party* to the proceedings may . . . apply for a rehearing." Since none of these entities are parties, the materials they have submitted should be disregarded.

This matter is a Rule to Show Cause initiated by ORS against a single campground in South Carolina. While the outcome of this proceeding *may* impact other entities within South Carolina (just as any decision by the Commission may), that is not a basis for every electrical utility to intervene and participate in the action. SCE&G and Duke Energy/Progress Energy's Petitions to Intervene must be denied and all materials submitted by SCE&G, Duke Energy, Progress Energy, and the Cooperatives should be disregarded.

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September 19, 2012

CERTIFICATE OF SERVICE

I, the undersigned Paralegal, of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for *defendant/respondent Mill Creek Marina & Campground, Inc., and/or Richard B. and Diane W. Anderson*, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by e-mail as well as mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

RESPONDENTS' OPPOSITION TO PETITIONS TO INTERVENE

Counsel Served:

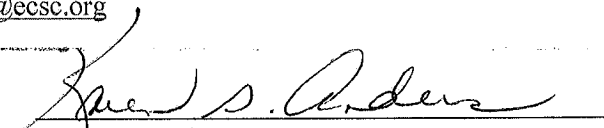
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